

REMARKS/ARGUMENTS

Claims 2-22 are currently pending in this application. Claim 18 has been amended.

Request for Reconsideration and Withdrawal of Finality of Office Action

Applicants respectfully request that the Examiner reconsider and withdraw the finality of the office action mailed August 26, 2003. In the response to office action dated June 3, 2003, Applicants amended claim 18 to recite the presence of hydrogen, which is recited in dependent claims 10, 11, and 12. Thus, Applicants amended the independent claim to include a limitation from the dependent claims. In conducting the initial prior art search, the Examiner is presumed to have considered the invention as claimed, which would include the limitations of the dependent claims. Under such circumstances, MPEP 706.07(b) clearly states that a final rejection is improper:

A second or any subsequent action on the merits in any application or patent involved in reexamination proceedings should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed.

In the present case, hydrogen not only should reasonably have been expected to be claimed, but in fact hydrogen was expressly recited in dependent claims 10, 11, and 12. Thus, the Examiner's decision to perform additional searching and rely on *Pelrine* (a new reference previously not of record as evidenced by form PTO-892) was not necessitated by Applicants amendment, as Applicants were merely rolling a limitation from a dependent claim into the independent claim, which the Examiner should reasonably have expected in conducting the initial search. Therefore, Applicants respectfully request reconsideration and withdraw of the finality of the office action.

35 USC §102 Rejections

Claims 2-6, 10-12, and 17-22 stand rejected under 35 USC §102(b) as anticipated by *Pelrine* (US 5,087,782). Applicants have amended independent claim 18 to recite that the oligomerization product undergoes selective/minor cracking, isomerization, and hydrogenation to form an upgraded product, which is supported at page 7, lines 15-16 of the specification. Applicants have further amended claim 18 to recite that the upgraded product exhibit a greater viscosity index, lower pour point, or both, which is supported at page 5, lines 9-11 of the specification. *Pelrine* does not disclose such an upgrading process or resultant product, and thus claim 18 and claims 2-6, 10-12, 17, and 19-22 depending therefrom are not anticipated by *Pelrine*.

35 USC §103 Rejections

Amended claim 18 and claims 2-17 and 19-22 are not obvious under 35 USC §103 in view of *Pelrine*, as *Pelrine* does not teach or suggest every limitation of the independent claim. *Pelrine* is drawn to a process for dehydrocyclization of high viscosity index polyalphaolefin (HVI-PAO), which converts a portion of the pendant or branching alkyl groups in the recurring polymeric unit of PAO to aromatic structure. An important result of the *Pelrine* dehydrocyclization process is that the end product has increased aromaticity without significantly degrading viscosity or VI (see objects of the invention at col. 2, line 42-45). That is, *Pelrine* starts with an HVI-PAO and ends with an IIHVI-PAO having increased aromaticity.

In contrast, Applicants claim a process wherein an oligomerization product undergoes selective/minor cracking, isomerization, and hydrogenation in the presence of hydrogen to form an upgraded product having a greater viscosity index, lower pour point, or both. That is,

Applicants upgraded the viscosity index, pour point, or both of the starting material, whereas *Pelrine* seeks to preserve the VI properties of the starting material while increasing aromaticity. Thus, *Pelrine* does not teach or suggest all of the limitations recited in amended claim 18. In fact, *Pelrine* teaches away from using hydrogen, as such is detrimental to the desired dehydrocyclization reaction to form the desired aromatic groups. Specifically, *Pelrine* teaches at col. 7, lines 31-33, “[t]he highest aromatic content is to be found when hydrogen flow rate is zero as shown in FIG. 1.” *Pelrine* further teaches at col. 8, lines 23-28 that “[a]s shown in Table 1, and as previously noted, aromatic structure formation varies as a function of hydrogen flow rate with the highest aromatic content achieved under conditions of no hydrogen flow.” In sum, *Pelrine* does not teach or suggest, as recited in amended claim 18, a process wherein an oligomerization product, 1) in the presence of hydrogen, 2) undergoes selective/minor cracking, isomerization, and hydrogenation, 3) to form an upgraded product having a greater viscosity index, lower pour point, or both. Thus, Applicants respectfully submit that claims 2-22 are not obvious in view of *Pelrine*.

CONCLUSION

Applicants respectfully submit that the present application as amended is in condition for allowance. If the Examiner has any questions or comments or otherwise feels it would be helpful in expediting the application, he is encouraged to telephone the undersigned at (972) 731-2288.

The Commissioner is hereby authorized to charge payment of any fee associated with this communication to Deposit Account No. 50-1515.

Respectfully submitted,
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